

BILL ANALYSIS

Senate Research Center

H.B. 1003
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties contend that certain state law regarding investment procedures for public funds is inconsistent with applicable regulations promulgated by the federal Securities and Exchange Commission in response to the recent financial crisis and that the eligibility of certain public fund investment pools may be jeopardized as a result. H.B. 1003 seeks to harmonize state law and the applicable federal regulations.

H.B. 1003 amends current law relating to investment of public funds.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2256.004(a), Government Code, to provide that this subchapter (Authorized Investments for Governmental Entities) does not apply to an institution of higher education (IHE) having total endowments of at least \$150 million in book value on September 1, 2017, rather than an IHE having total endowments of at least \$95 million in book value on May 1, 1995.

SECTION 2. Amends Section 2256.009(a), Government Code, to provide that, except as provided by Subsection (b) (relating to certain investments not authorized under this section (Authorized Investments: Obligations of, or Guaranteed by Governmental Entities)), certain investments, including interest-bearing banking deposits that are guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor, are authorized investments under this subchapter.

SECTION 3. Amends Section 2256.011, Government Code, by adding Subsection (e), to provide that Section 1371.059(c) (relating to authorizing issuers in certain proceedings to agree to waive sovereign immunity from suit or liability for a certain purpose) applies to the execution of a repurchase agreement by an investing entity.

SECTION 4. Amends Sections 2256.014(a) and (b), Government Code, as follows:

(a) Provides that a no-load money market mutual fund is an authorized investment under this subchapter if the mutual fund complies with federal Securities and Exchange Commission Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), rather than has a dollar-weighted average stated maturity of 90 days or fewer. Deletes existing text providing that a no-load money market mutual fund is an authorized investment under this subchapter if the mutual fund includes in its investment objectives the maintenance of a stable net asset value of \$1 for each share.

(b) Provides that, in addition to a no-load money market mutual fund permitted as an authorized investment in Subsection (a), a no-load mutual fund is an authorized investment under this subchapter if the mutual fund either has a duration of one year or

more and is invested exclusively in obligations approved by this subchapter, rather than is invested exclusively in obligations approved by this subchapter, or has a duration of less than one year and the investment portfolio is limited to investment grade securities, excluding asset-backed securities. Deletes existing text providing that, in addition to a no-load money market mutual fund permitted as an authorized investment in Subsection (a), a no-load mutual fund is an authorized investment under this subchapter if the mutual fund is continuously rated as to investment quality by at least one nationally recognized investment rating firm of not less than AAA or its equivalent and conforms to the requirements set forth in Sections 2256.016(b) and (c) (relating to an investment pool furnishing investment transaction confirmations and a monthly report to certain individuals of the entity to maintain eligibility to receive funds from and invest on behalf of an entity) relating to the eligibility of investment pools to receive and invest funds of investing entities.

SECTION 5. Amends Section 2256.015, Government Code, by adding Subsection (d), to provide that Section 1371.059(c) (relating to authorizing issuers in certain proceedings to agree to waive sovereign immunity from suit or liability for certain purposes) applies to the execution of a guaranteed investment contract by an investing entity.

SECTION 6. Amends Sections 2256.016(b) and (f), Government Code, as follows:

(b) Provides that, to be eligible to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity an offering circular or other similar disclosure instrument that contains, at a minimum, certain information, including the pool's policy regarding holding deposits in cash.

(f) Requires that a public funds investment pool that uses amortized cost or fair value accounting, rather than a public funds investment pool created to function as a money market mutual fund, to be eligible to receive funds from and invest funds on behalf of an entity under this chapter, mark its portfolio to market daily, and, to the extent reasonably possible, stabilize at a \$1.00 net asset value, when rounded and expressed to two decimal places. Requires the governing body of the public funds investment pool to take action as the body determines necessary to eliminate or reduce to the extent reasonably practicable any dilution or unfair result to existing participants, including a sale of portfolio holdings to attempt to maintain the ratio between 0.995 and 1.005, rather than requires portfolio holdings to be sold as necessary to maintain the ratio between 0.995 and 1.005, if the ratio of the market value of the portfolio divided by the book value of the portfolio is less than 0.995 or greater than 1.005. Makes a conforming change.

SECTION 7. Amends Subchapter A, Chapter 2256, Government Code, by adding Section 2256.0206, as follows:

Sec. 2256.0206. **AUTHORIZED INVESTMENTS: HEDGING TRANSACTIONS.** (a) Defines "eligible entity," "eligible project," and "hedging."

(b) Provides that this section prevails to the extent of any conflict between this section and another law or an eligible entity's municipal charter, if applicable.

(c) Requires the governing body of an eligible entity to establish the entity's policy regarding hedging transactions.

(d) Authorizes an eligible entity to enter into hedging transactions, including hedging contracts, and related security, credit, and insurance agreements in connection with commodities used by an eligible entity in the entity's general operations, with the acquisition or construction of a capital project, or with an eligible project. Requires that a hedging transaction comply with the regulations of the federal Commodity Futures Trading Commission and the federal Securities and Exchange Commission.

(e) Authorizes an eligible entity to pledge as security for and to the payment of a security, credit, or insurance agreement related to a hedging contract any revenue the entity is authorized by law or an agreement to pledge to the payment of any other obligation.

(f) Provides that Section 1371.059(c) applies to the execution by an eligible entity of a hedging contract and any related security, credit, or insurance agreement.

(g) Authorizes an eligible entity to credit any amount the entity receives under a hedging contract against expenses associated with a commodity purchase.

(h) Authorizes an eligible entity's cost of or payment under a hedging contract or agreement to be considered a certain expense of the eligible entity or cost of an eligible project.

SECTION 8. Makes application of this Act prospective.

SECTION 9. Effective date: upon passage or September 1, 2017.